

# VWAP Overview

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# GOALS of the Training

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1. Understand the VWAP Order and your role
2. Understand impact of crime and the justice system upon victims, especially victims of violent crime
3. Improve the VWAP programs to provide best support to our victims and witnesses
4. Focus on best practices to accomplish #3

# VWAP 101

# VWAP: PURPOSE & GOALS

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- Ensure that all victims and witnesses are treated with dignity and respect.
- Ensure all victims are aware of their rights, the trial process and are provided services they need
- Protect victims from further harm or hardship
- Employ a multi-disciplinary approach to assisting victims and witnesses by combining the services of law enforcement, family advocacy, medical, legal corrections, and command personnel.

# VICTIM AND WITNESS ASSISTANCE PROGRAM (VWAP) - REFERENCES

- MCO 5800.14 – VWAP – current policy
  - Undergoing MCATS review
- DODD 1030.01 & DODI 1030.2 – current policy
  - DODI 1030.02 – forthcoming
- MCO 5800.16A – Legal Services Administration Manual
- DTM 14-003 – Special Victim Capabilities
- Article 6b, UCMJ – military crime victim's rights
- Article 54(e), UCMJ – right for SA victim to ROT
- Article 60(d), UCMJ – right to submit matters for CA's consideration when taking action

# Victims Eligible for VWAP Services

- Person who suffers physical, emotional, or pecuniary harm as a result of a crime if any portion of the investigation is conducted primarily by DoD component:
- Includes, *but is not limited to*:
  - Military members and dependents.
  - Outside the Continental U.S. - DoD civilian employees, contractors, and family members.
  - If victim is under 18, incompetent, incapacitated, or deceased, the term includes either: spouse, guardian, parent, child, sibling, family member, or another person designated by court or convening authority.
  - Authorized representative of Institutional Entity – but not entitled to individual services – such as, transitional compensation, etc.
- Civilians if the offense is punishable under the UCMJ and any portion of the investigation is conducted primarily by a DoD Component.

# VWAP: VICTIMS' RIGHTS

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- To be reasonably protected from the accused.
  - MPO, CPO
- To reasonable, accurate, and timely notice of
  - Public hearing concerning the continuation of confinement prior to trial – IRO hearing
  - An Article 32 preliminary hearing
  - A court-martial
  - A public proceeding of the Navy Clemency & Parole Board
  - The release or escape of the accused
- Not to be excluded from any such public hearing or proceeding described above, unless the military judge or hearing officer, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered

# VWAP: VICTIMS' RIGHTS

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- to be reasonably heard at:
  - A public hearing concerning the continuation of confinement – IRO hearing
  - A sentencing hearing related to the offense
  - A public proceeding of the Navy Clemency & Parole Board
- The reasonable right to confer with the attorney for the Government in the case.
- to full and timely restitution as provided in law.
  - Article 139, PCA, state compensation funds
- to proceedings free from unreasonable delay.
- to be treated with fairness and with respect for the victim's dignity and privacy.



# VWAP: VICTIMS' RIGHTS

- Sexual Assault victims are entitled to a copy of the record of trial
  - Does not matter the outcome (guilty/not guilty)
  - Does not matter if they testify (RCM 1105)
- Victims are entitled to submit matters for the CA to consider before taking action
  - Only if there's a conviction of an offense regarding that victim

# VWAP: Witnesses eligible for services

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- A person who has information or evidence about a crime, and provides that knowledge to a DOD Component about an offense in the investigative jurisdiction of a DOD component.
  - When the witness is a minor, a witness includes a family member or legal guardian.
- The term witness does not include a defense witness, professionals testifying in a professional capacity (NCIS, USACIL), character witnesses, or a perpetrator or accomplice.

# VWAP: WITNESS' RIGHTS

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- To be treated with fairness and respect for the witness's dignity and privacy.
  - Protect PII & keep informed
- To be reasonably protected from the accused.
  - MPO, CPO
- To be notified of any scheduling changes which will affect their appearance at court-martial.

# VWAP: WITNESS' RIGHTS

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- To be notified of the apprehension of an accused, the initial appearance of an accused before a military judge, the release of the accused pending court-martial, and trial proceedings (including entry of guilty pleas and sentencing).
- To receive information about the conviction, sentence, confinement, and release of the accused.

# VWAP: DOD POLICY

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- *Particular attention should be paid to victims of serious, violent crime, including sexual assault, child abuse, and domestic violence.*
- *DTM 14-003 - These are now categorized as "Special Victim Cases" that require special victim capable personnel to handle the sensitivities of these cases (including VWAP personnel)*

# VWAP: HOW IT WORKS

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- Base and Installation commanders are responsible for implementing VWAP and shall be the central points of contact for VWAP issues aboard the installation.
- Base and Installation Commander manage through Victim Witness Liaison Officer (VWLO), VWAP Council and Victim Witness Assistance Coordinators for commands.

# VWAP OFFICIALS

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- USMC - SJA to CMC
  - CMC provides DoD VWAP Council Rep – That's me!
- CMC (PSL) Corrections
- MCI Regional Commanding Generals RVWLO
- Installation commanders – VWLO
- Unit commanders – Bn/Sq and above – VWAC
- Law enforcement - VWAP Representative
- LSST representatives- VWAP Representative
- Corrections Personnel - VWAP Representative
- Service providers (advocates, chaplain, medical) - VWAP Representatives

# VWAP Definitions

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- **RVWLO** – MCI Region/MCICOM/MFR CG's primary representative on all VWAP matters.
- **VWLO** - The installation commander's representative responsible for the coordination of victim and witness assistance efforts aboard the installation.
- **VWAC** - The command's primary point of contact for victim and witness assistance matters.



# INSTALLATION LEVEL: WHO DOES WHAT

- **RVWLO** – Manages VWAP throughout the Commander's area of responsibility
- **VWLO** - manage base programs for Commanders
- **NCIS/CID/PMO** – normally first responsibility to inform crime victims and witnesses of rights under program; perform threat assessment; assist in contacting other services; safeguard property; contact command VWACs
- **Prosecutors and legal personnel** - have continuing responsibility to ensure rights and services afforded victims and witnesses
- **Victim Witness Assistance Coordinator** – provides information & assistance to victims in receiving restitution
- **Corrections personnel** - manage post-trial confinement forms, reports & notifications

# INSTALLATION LEVEL:

## WHO DOES WHAT

- Sexual Assault Prevention and Response Program/ SARCs, UVAs – SA Only
- Victim Legal Counsel – represents eligible victims
- Family Advocacy Program – Domestic Abuse Victim Advocates
- Transitional Compensation – HQMC via commanders – FAP managed
- Unit Commanders – Security, military protective orders, notifications
- Chaplain – counseling, comfort
- Medical - services
- Civilian advocacy services, social services, medical

# VWAP: COORDINATION IS KEY

- “All offices responsible for a part of the military justice process (including, but not limited to, law enforcement and criminal investigative agencies, convening authorities, legal, corrections) are responsible for ensuring a smooth transition of victim and witness assistance at each stage of the criminal justice process. *This means that close coordination is required among the VWAP personnel assigned to each of these offices during the transition from one phase of the criminal justice process to the next.*”
- Ensure right contact information is given on each DD Form to each Victim or Witness
- Ensure continuing coverage for Victims/Witnesses of services and rights.

# RVWLO

## *REQUIREMENTS*

- Ensures training is available to all VWLOs and VWACs
- Maintains list of all VWLOs in region
- Chair semi-annual Regional VWLO Meeting
- Ensure data (2701-2704) collection for the region
- Available to inspect VWLOs and VWACs as part of CGIP
- Liaise with Program Manager – me about problems/trends in region

# VWLO

## *REQUIREMENTS*

- Ensures coordination among all offices
- Maintains list of all VWACs
- Ensures VWACs have relevant information, including VWAC roster and directory of local services/programs
- Chairs VWAP Council
- Ensures victims are notified of all support, services and rights available and VWAC information.
- Assists Base CO in reporting requirements

# VWLO

## *REQUIREMENTS*

- “Maintain a directory of military and civilian programs and services . . . within geographic area of the installation.”
- If necessary, assist in contacting the people responsible for providing victim and witness services and relief
- VWLO – Maintains Base VWAP website

# VWAP vs SAPR/FAP

- VWAP is an overarching assistance program for victims and witnesses of any crime, regardless of type and criminal proceeding.
- SAPR is a specialized victim assistance program for non-familial adult sexual assault cases.
- FAP is a specialized assistance & counseling program for victims and offenders for familial violence cases (including Sexual Assault).

# VWAP vs SAPR

## Applicability

### VWAP

- Applies to all victims of crimes committed in violation of the UCMJ

### FAP

- Applies to all eligible victims of domestic violence or child abuse
  - Current or former spouse
  - A person with whom the abuser shares a common child
  - A current or former intimate partner with whom the abuser shares or has shared a common domicile
  - Child, foster child, or the abuser is the caregiver

### SAPR

- Applies to all eligible adult victims of sexual assault that aren't eligible for FAP
  - Eligible – service members, dependents, or DOD employees overseas



# VWAP vs SAPR

## Personnel Involved

### SAPR

- Uniform Victims Advocates

### VWAP

- Victim Witness Assistance Coordinators

### FAP

- Domestic Abuse Victim Advocates & Counselors
- Cannot be the same people
  - Privilege issues under MRE 513/514
  - VWAP reports to COMMANDER, FAP/SAPR serve the victim

# VWAP FORMS

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- An end to themselves?
- No –
  - Ensures that the support, services and rights are provided and ensured.
- ***DD Forms 2701-2704 do not replace genuine service and support.***

# VWAP: Pretrial & DD Form 2701

- NCIS/CID/PMO provide V/Ws with DD Form 2701
- If no investigation – Prosecution team provides DD Form 2701
- 2701 provides initial rights advisement, discusses impact of various crimes, explains basic services and notifies V/W where to get further assistance

# VWAP: Military Trial Process & DD Form 2702

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- Upon first contact with victim or witness, prosecution provides DD Form 2702
- DD Form 2702 explains military trial process, gives tips and restates rights.
- 2702 includes rights regarding participating in trial process.
- 2702 provides VWAP responsible official contact information and prosecutor contact information

# VWAP: Post Trial & DD Form 2703

- Prosecution provides victim or witness with DD Form 2703 at finish of trial.
- Includes "Right to receive information about the conviction, sentencing, imprisonment, parole eligibility and release of the accused"
- Provides Contact info for Service Central Repository (CMC PSL (Corrections)), Confinement Facility, Service Clemency and Parole Board and any other necessary agency/office
- *"From now on, your POC will be the confinement facility or the Service Central Repository listed on the back of this page."*

# VWAP: Post Trial & DD Form 2704

- TC provides brig with DD Form 2704 at finish of trial.
- Requires election by each V/W whether to receive information on confinement status
- Provided to victims and witnesses upon request (redacted)
- **The 2700s are never included in the ROT – these have personal info of victims and witnesses and should not be shared**

# VWAP: Post Trial Notifications & DD Form 2705

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- Corrections personnel ensure notifications made to V or Ws listed on DD Form 2704
- Clemency Eligibility
- Parole Eligibility
- Change in status – Parole/Clemency  
Approved, Released, Deceased, Escaped,  
Transferred, Work release

# MCO 5800.14 VWAP

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- Creates RVWLO
- TCs shall not serve at VWLO/RVWLO
- Quarterly reporting of 2701-2704 for VWLOs
- Addition of Legal Assistance Attorney Role
  - Now superseded by Victim Legal Counsel
- Additional requirements for Confinement facilities
- VWACs should not serve as UVAs (SAPR Order is more restrictive)
- LSST OICs have requirement for VWAP Data in CMS



# Functional Area Checklist

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- USMC IG
  - 092 Functional Area Checklist for VWAP
    - New in 2012
  - The Marine Corps Standard for VWAP
  - Soon to be core inspection area
- <http://www.hqmc.marines.mil/igmc/Resources/FunctionalAreaChecklists.aspx>

# VWAP: RESOURCES AND FORMS

- CMC – Maj Mark Sameit (703) 693-8955; mark.sameit@usmc.mil / Capt Joe Neely (703) 693-8407; joseph.t.neely@usmc.mil
- CMC (PSL Corrections) (703) 614-1480
- Installation Victim Witness Liaison Officers (VWLO)
- <http://www.defenselink.mil/vwac/dodprograms.html> (DOD VWAP COUNCIL WEBSITE) – contains link to training presentations and forms
- <http://www.ncvc.org/ncvc/Main.aspx> (National Center for Victims of Crime)
- <http://www.ojp.usdoj.gov/programs/victims.htm> (DOJ Office for Victims of Crime)
- <http://vwac.defense.gov/> (DoD Victim Witness Assistance Council)

# SUMMARY

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- Victims/Witnesses of Crime deserve protection and assistance
- Interdisciplinary Program
- Coordination is Key
- Base Commanders own Local Base Programs
- All agencies have a role